

Appl. No. : 10/525,655
Filed : February 25, 2005

REMARKS

The title has been changed to more particularly reflect the claimed subject matter. The amendment to the title does not add new matter.

Claims 1-21 are canceled without prejudice to, or disclaimer of, the subject matter contained therein. Applicants maintain that the cancellation of a claim makes no admission as to its patentability and reserve the right to pursue the subject matter of the canceled claims in this or any other patent application.

New Claims 22-29 are added. New Claim 22 is supported by the specification, for example, at page 4, lines 7 to 21, and page 9, line 7 to page 11, line 25. New Claim 23 is supported by the specification, for example, at page 6, lines 5 to 10. New Claim 24 is supported by the specification, for example, at page 10, lines 1 to 10. New Claim 25 is supported by the specification, for example, at page 6, line 21 to page 7, line 3 and page 8, lines 11 to 18. New Claim 26 is supported by the specification, for example, at page 9, line 7 to page 11, line 25. New Claim 27 is supported by the specification, for example, at page 10, lines 14 to 17. New Claims 28 and 29 are supported by the specification, for example, at page 11, lines 5 to 8. The new claims do not add new matter.

Upon entry of the amendment, Claims 22-29 are pending.

Office Communication dated June 29, 2007 Alleging Applicants' Response was Non-Responsive

The Office Communication dated June 29, 2007 indicates that Applicants' Response to the Office Action dated November 16, 2006 was not fully responsive because the newly submitted claims recited an invention that was different from the previously elected invention.

Applicants respectfully traverse.

The Office Communication states:

Applicant had originally elected claims drawn to a hair growth stimulant for oral use ... however, Applicant's new claims are drawn to an edible composition... Please note that applicant's original claim recited a hair growth stimulant for oral use, which does not mean that the composition is a food. Please note that an oral composition is distinct from an edible composition because an oral composition, is not necessarily a food, which an edible composition appears to be synonymous with.

Appl. No. : 10/525,655
Filed : February 25, 2005

Thus, the Office Communication objects to the claims of Applicants' Response to the Office Action dated November 16, 2006 because such claims are directed to edible compositions which the Office Communication equates with being a food, and the Office Communication appears to assert that food is outside of the scope of Applicants' previously elected invention.

Applicants respectfully submit that the claims as amended are fully consistent with, and within the scope of, the elected claim group. The Restriction Requirement dated July 25, 2006 restricted the Claims to three groups: Group I (Claims 1-6), Group II (Claims 7-14) and Group III (Claims 15-21). Applicants' Response to Restriction Requirement dated August 21, 2006 elected Group I (Claims 1-6). Claims 1-6, as pending at the time of the Restriction Requirement and Applicants' Response thereto recited:

1 (original): A hair growth stimulant for oral use comprising at least one member selected from the group consisting of plants of the genus Orthosiphon in the family Lamiaceae, plants of the genus Vitex L. in the family Verbenaceae, and extracts thereof.

2 (currently amended): The hair growth stimulant according to claim 1, wherein the plants of the genus Orthosiphon in the family Lamiaceae are cat's whiskers (Orthosiphon aristatus (Blume) Miq.), Orthosiphon grandiflorus Bold., Orthosiphon rubicundus Benth., Orthosiphon spicatus Benth., and Orthosiphon stamineus Benth.

3 (original): The hair growth stimulant according to claim 1, wherein the plants of the genus Vitex L. in the family Verbenaceae are simpleleaf chastetree (Vitex trifolia L.), roundleaf chastetree (Vitex rotundifolia L.f.), hempleaf negundo chastetree (Vitex cannabifolia Sieb.et Zucc.), negundo chastetree (Vitex negundo L.) and lilac chastetree (Vitex agnus-castus L.).

4 (currently amended): The hair growth stimulant according to claim 1, **which is a food for hair growth.**

5 (new): The hair growth stimulant according to claim 2, **which is a food for hair growth.**

6 (new): The hair growth stimulant according to claim 3, **which is a food for hair growth.**
(emphasis added)

As is clear from the above, the Restriction Requirement and Applicants' Response thereto specifically included within the scope of elected Group I a hair stimulant **which is a food for hair growth.** Thus, a hair stimulant in the form of a food has always been clearly

Appl. No. : 10/525,655
Filed : February 25, 2005

within the scope of Applicants' previously elected claim group. As such, the newly submitted claims **were not** directed to subject matter different from, or outside of the scope of, Applicants' previously elected claim group.

Furthermore, no other language in the newly submitted claims would take these claims outside of the scope of the originally elected claim group. For purposes of demonstrating the similarity of the claimed subject matter between the originally elected claim group and Claims 22-29, and for also identifying the support for Claims 22-29 by the original disclosure, Applicants annotate below the language of the originally elected claims in comparison with the language of the presently added claims.

"Edible Composition" and "Edible Ingredient"

Of the new claims, only new Claim 22 is independent. New Claim 22 recites

22. (New) An **edible composition** comprising:
(a) an amount of at least one plant selected from the genus *Orthosiphon* in the family *Lamiaceae*, or extract thereof, effective to stimulate hair growth upon ingestion; and
(b) at least one **edible ingredient** added thereto.

Claims 1 and 4, as elected, recited:

1 (original): A hair growth stimulant for **oral use** comprising at least one member selected from the group consisting of plants of the genus *Orthosiphon* in the family *Lamiaceae*, plants of the genus *Vitex* L. in the family *Verbenaceae*, and extracts thereof.

4 (currently amended): The hair growth stimulant according to claim 1, **which is a food for hair growth.**

The specification, at page 9, line 14, through page 11, line 25, teaches, for example:

The hair growth stimulant for oral use of the present invention **can be used as a preparation that is suitable as a health food, functional food, supplement or the like.** The preparation can also be used as a medicine.

The hair growth stimulant for oral use of the present invention may consist solely of a plant or plants of the genus *Orthosiphon* in the family *Lamiaceae*, a plant or plants of the genus *Vitex* L. in the family *Verbenaceae* and/or an extract or extracts thereof, or may be prepared by **mixing the plant(s) and/or extract(s)**

with a material that is used as a carrier and then processing the mixture into a powder, mass, liquid or other form.

Since plants of the genus Orthosiphon in the family Lamiaceae and the genus Vitex L. in the family Verbenaceae, and extracts thereof, show no toxicity for humans, the amount of the plant or plants and/or an extract or extracts thereof contained in the hair growth stimulant for oral use is not limited, and is preferably such that an adult human can orally ingest 0.1 to 100 g, and preferably 1 to 60 g (calculated as dried plant) of the plant or plants and/or extract or extracts thereof per day, divided into 1 to 3 doses.

The hair growth stimulant for oral use of the present invention **may contain suitable additives as required.**

The hair growth stimulant for oral use of the present invention can be formulated into an easily usable form, such as **tablets, powder, granules, capsules, chewable tablets, liquid, etc.**

Food

The hair growth stimulant for oral use of the present invention can be used in a so-called "food form", such as a food for hair growth.

The food comprising the hair growth stimulant for oral use of the present invention, such as a food for hair growth, can be prepared by processing the hair growth stimulant for oral use alone, or by processing a mixture of the hair growth stimulant for oral use and an arbitrary material usable for food preparation, into a powder, mass, liquid or other form.

The food comprising the hair growth stimulant for oral use of the present invention used for a **food can be made into various forms, such as a mass, liquid, syrup, powder, jelly, etc., in a routine manner.**

Examples of food forms include soft drinks, juices, teas and other beverages (drink preparations); powdered juices, powdered soups and other powdered food; cookies, biscuits, cereals, chewing gums, candies, gummy candies, tablets, wafers, rice crackers and other confections and snacks; etc.

The food comprising the hair growth stimulant for oral use of the present invention may further contain other ingredients generally used in foods, to such an extent that the effects of the invention are not hindered. Examples of usable ingredients include other medicinal ingredients, nutrients, animal and plant ingredients, excipients, extenders, sweeteners, flavors, colors, preservatives, emulsifiers, solubilizers, polyhydric alcohols and ester

Appl. No. : 10/525,655
Filed : February 25, 2005

derivatives thereof, organic and inorganic acids and salts thereof, water-soluble polymers, etc. (underlined in original, bold underlined added).

As can be seen from the above, Claim 1 as elected was drawn to a composition for oral use, where Claim 4 demonstrates that one such oral use is as a food. The specification teaches that the composition for oral use can be a health food, functional food, supplement or the like, and can be in the form of a tablet, powder, granule, capsule, chewable tablet, liquid, etc. Further, the food of Claim 4 can contain other ingredients generally used in foods, such as other medicinal ingredients, nutrients, animal and plant ingredients, excipients, extenders, sweeteners, flavors, colors, preservatives, emulsifiers, solubilizers, polyhydric alcohols and ester derivatives thereof, organic and inorganic acids and salts thereof, water-soluble polymers, etc. Thus, it is clear that Claims 1 and 4, as elected, encompassed embodiments in which additional edible ingredients could be present in the oral formulation/food.

Claim 22, is directed to an edible composition containing, in addition to the recited plant or extract thereof component, at least one edible ingredient. Claim 22's recitation of an "edible composition" is fully consistent with the scope of elected Claim 1, directed to a composition for oral use, including food. Further, as is clear from elected Claims 1 and 4 and the teachings of the specification, such compositions for oral use could contain at least one edible ingredient. Accordingly, recitation in Claim 22 of "An edible composition" and "at least one edible ingredient added thereto" is fully consistent with the originally elected claim group, and also is fully supported by the teachings of the specification. As such, these terms as recited in Claim 22 do not raise issues as to amendment to pursue subject matter outside of the originally elected claim group, nor issues as to lack of written description support for the amendment.

"Orthosiphon in the Family Laminaceae" and "Extract Thereof"

New Claim 22 recites

22. (New) An edible composition comprising:
(a) an amount of at least one plant selected from the genus **Orthosiphon in the family Laminaceae**, or **extract thereof**, effective to stimulate hair growth upon ingestion; and
(b) at least one edible ingredient added thereto.

Claim 1, as elected, recited:

Appl. No. : 10/525,655
Filed : February 25, 2005

1 (original): A hair growth stimulant for oral use comprising at least one member selected from the group consisting of plants of the genus Orthosiphon in the family Lamiaceae, plants of the genus Vitex L. in the family Verbenaceae, and extracts thereof.

As is clear from the above, the above-highlighted language of new Claim 22 is fully supported by Claim 1 as elected. This language of Claim 22 does not raise issues as to amendment to pursue subject matter outside of the originally elected claim group, nor issues as to lack of written description support for the amendment.

"Effective to Stimulate Hair Growth upon Ingestion"

New Claim 22 recites

22. (New) An edible composition comprising:
(a) an amount of at least one plant selected from the genus *Orthosiphon* in the family *Lamiaceae*, or extract thereof, effective to stimulate hair growth upon ingestion; and
(b) at least one edible ingredient added thereto.

Claim 1, as elected, recited:

1 (original): A hair growth stimulant for oral use comprising at least one member selected from the group consisting of plants of the genus Orthosiphon in the family Lamiaceae, plants of the genus Vitex L. in the family Verbenaceae, and extracts thereof.

The specification, for example, at page 10, lines 1-10, teaches:

Since plants of the genus Orthosiphon in the family Lamiaceae and the genus Vitex L. in the family Verbenaceae, and extracts thereof, show no toxicity for humans, the amount of the plant or plants and/or an extract or extracts thereof contained in the hair growth stimulant for oral use is not limited, and is preferably such that an adult human can orally ingest 0.1 to 100 g, and preferably 1 to 60 g (calculated as dried plant) of the plant or plants and/or extract or extracts thereof per day, divided into 1 to 3 doses. (underlined in original, bold underlined added).

As is clear from the above, the above-highlighted language of new Claim 22 is consistent with the subject matter to which Claim 1, as elected, was drawn. This language of Claim 22 also is fully supported by the specification. Accordingly, this language of Claim 22

Appl. No. : 10/525,655
Filed : February 25, 2005

does not raise issues as to amendment to pursue subject matter outside of the originally elected claim group, nor issues as to lack of written description support for the amendment.

Dependent Claims 23-29

New Claims 23-29 depend from Claim 22, and, therefore, also are consistent with the originally elected claim group. Further, new Claims 23-29 are fully supported by the specification and claims as originally filed. New Claim 23 is supported by the specification, for example, at page 6, lines 5 to 10. New Claim 24 is supported by the specification, for example, at page 10, lines 1 to 10. New Claim 25 is supported by the specification, for example, at page 6, line 21 to page 7, line 3 and page 8, lines 11 to 18. New Claim 26 is supported by the specification, for example, at page 9, line 7 to page 11, line 25. New Claim 27 is supported by the specification, for example, at page 10, lines 14 to 17. New Claims 28 and 29 are supported by the specification, for example, at page 11, lines 5 to 8. New Claims 23-29 are fully supported by the specification, and do not add new matter.

Conclusion

In view of the above, the language of new Claim 22 is fully consistent with the originally elected claim group, Group I, Claims 1-6, and the language of new Claim 22 does not add new matter. All additional new claims depend from Claim 22, and, therefore, also are consistent with the originally elected claim group, and these claims are fully supported by the specification and do not add new matter. Accordingly, Applicants' submit that Applicants' Response to the Office Action dated November 16, 2006 was fully responsive to the previous Office Action because the newly submitted claims **did not** recite an invention that is different from Applicants' previously elected invention. Applicants therefore respectfully request entry of the Response to the Office Action dated November 16, 2006 as being fully responsive to the previous Office Action and not amending claims to be outside of the elected claim scope.

Addendum – meaning of term “Edible”

In addition to the above, the Office Communication characterizes the term “edible composition” being synonymous with the term “food”. Applicants respectfully traverse.

Appl. No. : 10/525,655
Filed : February 25, 2005

"Edible" refers to, *e.g.*, "capable of being eaten" whereas "food" refers to, *e.g.*, "something that nourishes." The two terms are not identical in meaning, as implied in the Office Communication. This interpretation of the meaning of the term "edible" is consistent with the teachings of the specification, which indicate that the formulations provided therein "can be used as a preparation that is suitable as a health food, functional food, supplement or the like." *Specification* at page 9, lines 14-17.

Information Disclosure Statement

Applicants submitted with the Applicants' Response dated April 13, 2007, a new IDS providing including the previously cited reference DE 3442961, accompanied by an English abstract. Also provided in the new IDS were the publication by Bruhl and the publication by Casadebaig-Lafon, which were previously submitted in an IDS mailed October 2, 2006. These two references were crossed out as not considered by the Examiner. However, the abstract and summary, respectively, of these articles are in English, and, therefore are appropriate for consideration. Further, Applicants submit that notwithstanding the status of Applicants' Response dated April 13, 2007, the IDS dated April 13, 2007 was properly filed and should be made of record. Accordingly, Applicants respectfully request consideration of the English abstract and summary, respectively, of these documents.

Objection to the Specification

The Office Action objects to the title as not descriptive. Applicants have amended the title herein to incorporate language as suggested in the Office Action. In view of the amendment to the title, Applicants respectfully request removal of this objection.

Objection to the Claims

The Office Action objects to the claims as containing informalities of genus and species names being underlined instead of italicized. Applicants have canceled the objected-to claims. Applicants' new claims contain genus and species names italicized. Accordingly, Applicants submit that the new claims are not objectionable as to the listing of genus and species names.

Rejection under 35 U.S.C. §112, Second Paragraph

Claims 1, 2, 4 and 5 were rejected under 35 U.S.C. §112, second paragraph as being indefinite. The Office Action objected to the phrases “for oral use” and “extracts thereof” of Claim 1, the Markush group of Claim 2 in view of Claim 1, and the phrase “food for hair growth” in Claims 4 and 5.

Claims 1, 2, 4 and 5 are canceled herein. Accordingly, the rejection as to these claims is moot.

Applicants have added new Claims 22-29. The rejections as they may apply to these claims is addressed below.

Regarding “for oral use,” the new claims do not recite the phrase “for oral use.” Thus, this ground for rejection is moot.

Claim 22 recites “at least one plant selected from the genus *Orthosiphon* in the family *Laminaceae*, or extract thereof,” and Claims 25 recites “wherein said extract is obtained by extracting with a solvent selected from the group consisting of water, C₁₋₃ alcohol, and a mixture thereof.” Applicants submit that the term “extract” as used in the claims, is clear and definite in view of the knowledge in the art and the teachings of the specification. The Office Action states:

In the case of “and extracts thereof”, what type of extracts is Applicant claiming? Is Applicant claiming aqueous or organic extracts or is Applicant claiming specific active compounds? The lack of clarity renders the claims indefinite since the resulting claims do not clearly set forth the metes and bounds of the patent protection desired. *Office Action* at page 4.

Applicants’ specification teaches and exemplifies preparation of extracts, which can be, e.g., aqueous or alcohol extracts of the plant material:

Extracts of the plants can be obtained by chopping the raw or dried plant and subjecting the chopped plant to extraction with a suitable solvent, which is preferably water, a lower alcohol or a mixture thereof.

Lower alcohols usable for extraction include C₁₋₃ alcohols, such as methanol, ethanol, etc., among which ethanol is most preferable. These alcohols may also be hydrous alcohol (water content: 0.1 to 99.9%).

The extraction can be performed by a batch process, percolation process, reflux process or other known processes. The proportion of the extraction solvent is not limited, and is suitably 2 to 1000 parts relative to 1 part of the chopped raw or dried plant. The extraction can be carried out at room temperature or with heating.

Preferably, the extraction is performed at a temperature range of room temperature to about 80°C for about 1 hour to about 10 hours while stirring under mild conditions. The extraction may also be carried out by adding the solvent dropwise to a cylinder filled with the chopped raw or dried plant.

(i) Preparation of Extract

One hundred grams of a dried whole plant of cat's whiskers, simpleleaf chastetree or lilac chastetree was chopped. Ethanol (2000 ml) was added, and the resulting mixture was heated to 70°C for 2 hours to perform extraction. After filtration, 2000 ml of ethanol was further added to the residue, and extraction was carried out for 2 hours more. The filtrates obtained by the two extraction steps were combined, concentrated under reduced pressure, and freeze-dried to obtain an extract. *Specification* at page 6, line 21, through page 7, line 16 and page 12, lines 8-17.

In view of these teachings in the specification, one skilled in the art would understand the meaning of the term "extracts" as recited in the claims. Accordingly, Applicants submit that the claims are not indefinite by virtue of reciting the term "extracts."

Regarding the rejection as to the Markush group recited in Claim 2, this claim is no longer pending and no new claim recites the objected to Markush group as it was recited in Claim 2. New Claim 23 recites a Markush group, but Applicants submit that the language of Claim 23 is in proper form and its scope is clear and definite. Accordingly, Applicants submit that the claims should no longer be subject to this ground of rejection.

Regarding the rejection of the phrase "food for hair growth," Claims 4 and 5 are canceled herein, and, therefore, this rejection is moot. New Claims 22-29 do not recite "food for hair growth," and, as such, do not contain the objected-to phrase. New Claim 26 does recite a food form, as: "a food form selected from the group consisting of soft drink, juice, tea, powdered juice, powdered soup, cookie, biscuit, cereal, chewing gum, candy, tablet, wafer, rice cracker." The food forms recited in Claim 26 are specific, and, thus, will be clear and definite to

Appl. No. : 10/525,655
Filed : February 25, 2005

those skilled in the art. Accordingly, Applicants submit that the claims should no longer be subject to this ground of rejection.

Rejection under 35 U.S.C. §102(b)

Claims 1, 2, 4 and 5 were rejected under 35 U.S.C. §102(b) as being anticipated by Nakaguchi et al. (JP 2001-031528).

Claims 1, 2, 4 and 5 are canceled herein. Thus, the rejection as to these claims is moot. The rejection as it applies to the subject matter of the new claims is discussed below.

New Claims

New Claims 22 is directed to a hair growth stimulant comprising: (a) an amount of at least one plant selected from the genus *Orthosiphon* in the family *Laminaceae*, or extract thereof, effective to stimulate hair growth upon ingestion; and (b) at least one edible ingredient added thereto, wherein the hair growth stimulant is in the form of an edible composition. New Claims 23-29 depend from Claim 22 and are directed to particular embodiments including, *inter alia*: a hair growth stimulant 0.1 to 100 g, calculated as dried plant, of the plant or extract thereof; an edible composition in a food form selected from the group consisting of soft drink, juice, tea, powdered juice, powdered soup, cookie, biscuit, cereal, chewing gum, candy, tablet, wafer, rice cracker; an edible composition in a form selected from the group consisting of tablets, powder, granules, capsules and chewable tablets; a hair growth stimulant in a form selected from the group consisting of a solid mass, syrup, powder and jelly; and a hair growth stimulant in liquid form.

The Reference

Nakaguchi discloses:

[0031] In addition, said hair restorer constituent can be used as cosmetics, quasi drugs, or drugs, for example, can be used as a hair tonic, a hair cream, and hair treatment.

Nakaguchi does not Anticipate New Claims 22-29

Applicants submit that Nakaguchi does not anticipate Claims 22 or any claim dependent therefrom because Nakaguchi does not disclose a composition containing the recited plant or extract and at least one edible ingredient, nor does Nakaguchi disclose a hair growth stimulant comprising an amount of the recited plant or extract thereof that is effective to stimulate hair

Appl. No. : 10/525,655
Filed : February 25, 2005

growth upon ingestion. The dependent claims are further novel over the reference because the reference does not teach or suggest the various embodiments recited therein.

The Office Action states:

Nakaguchi teaches a hair growth stimulant comprising *Orthosiphon aristatus* Bold., which may be used as a cosmetic, quasi drug or drug or may be used as a hair tonic, hair cream or hair treatment, which reads on food for hair growth. *Office Action* at page 5.

As Applicants have excerpted above, Nakaguchi actually discloses cosmetics, quasi drugs, or drugs, for example, can be used as a hair tonic, a hair cream, and hair treatment. Thus, Nakaguchi exemplifies that the cosmetics, quasi drugs or drugs can be in the form of “a hair tonic, a hair cream, or hair treatment,” all of which are topical compositions, which do not necessarily read on an edible composition for hair growth. There is no disclosure of Nakaguchi’s “hair restorer” in an edible composition form, as is recited in Applicants’ claims. Nakaguchi’s teaching of “cosmetics, quasi drugs, or drugs” does not inherently read on edible compositions because the only exemplification provided by Nakaguchi is of the topical compositions “a hair tonic, a hair cream, or hair treatment.” To establish inherency, the evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference. None of “a hair tonic, a hair cream, or hair treatment” taught by Nakaguchi are necessarily edible compositions comprising at least one edible ingredient in addition to the recited plant or extract. Accordingly, Nakaguchi does not anticipate the claims.

Even if Nakaguchi had disclosed an edible composition containing Nakaguchi’s “hair restorer” and at least one edible ingredient in addition to the recited plant or extract, Nakaguchi does not disclose an amount of at least one plant selected from the genus *Orthosiphon* in the family *Laminaceae*, or extract thereof, effective to stimulate hair growth upon ingestion. Applicants have discovered that the recited plant or extract thereof can stimulate hair growth upon ingestion, and Applicants have provided compositions containing an amount of the recited plant or extract thereof effective to stimulate hair growth upon ingestion. Nakaguchi does not disclose any amount of Nakaguchi’s “hair restorer” that can be effective to stimulate hair growth upon ingestion. Furthermore, none of Nakaguchi’s teachings inherently disclose Nakaguchi’s “hair restorer” in an edible form, and containing an amount of the plant or extract recited in Applicants’ claims that can be effective to stimulate hair growth upon ingestion. As such,

Appl. No. : 10/525,655
Filed : February 25, 2005

Nakaguchi further cannot anticipate the claimed compositions. Moreover, Nakaguchi only contemplated topical application of Nakaguchi's "hair restorer," and Nakaguchi provides no guidance whatsoever on whether or not such topical formulations could be modified to be effective to stimulate hair growth upon ingestion. Accordingly, it would not have been obvious to modify Nakaguchi's teachings to arrived at the claimed compositions. In view of the above, Applicants submit that the claims are patentable over Nakaguchi.

The Dependent Claims are further Novel over Nakaguchi

New Claims 23-29 depend from Claim 22 and are directed to particular embodiments including, *inter alia*: a hair growth stimulant comprising 0.1 to 100 g, calculated as dried plant, of the plant or extract thereof; a hair growth stimulant in a food form selected from the group consisting of soft drink, juice, tea, powdered juice, powdered soup, cookie, biscuit, cereal, chewing gum, candy, tablet, wafer, rice cracker; a hair growth stimulant in a form selected from the group consisting of tablets, powder, granules, capsules and chewable tablets; a hair growth stimulant in a form selected from the group consisting of a solid mass, syrup, powder and jelly; and a hair growth stimulant in liquid form.

As discussed above, Nakaguchi does not disclose a composition containing the recited plant or extract and at least one edible ingredient, or a hair growth stimulant comprising an amount of the recited plant or extract thereof that is effective to stimulate hair growth upon ingestion. In addition, Nakaguchi is silent as to quantities of the plant or extract present in an edible composition, or food or other particular edible forms in which the edible compositions can be formulated, as recited in various dependent claims. As such, Nakaguchi cannot anticipate these claims. Furthermore, because Nakaguchi does not contemplate that Nakaguchi's topical formulations could be modified to be effective to stimulate hair growth upon ingestion, it would not have been obvious to modify Nakaguchi's teachings to arrive at the compositions as recited in various dependent claims. As such, Applicants submit that the dependent claims are further patentable over Nakaguchi.

CONCLUSION

Appl. No. : 10/525,655
Filed : February 25, 2005

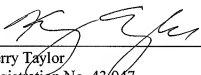
In view of the above, Applicants respectfully maintain that claims are patentable and request that they be passed to issue. Applicants invite the Examiner to call the undersigned if any remaining issues might be resolved by telephone.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 28-Aug-07

By: 
Kerry Taylor
Registration No. 43,947
Attorney of Record
Customer No. 20,995
(619) 235-8550

4073129/072707